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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Second Application of Pacific Gas and Electric Company for Approval of Agreements Resulting from Its 2014-2015 Energy Storage Solicitation and Related Cost Recovery (U39E).

Application 16-04-024
(Filed April 29, 2016)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND
ADMINISTRATIVE LAW JUDGE**

Summary

This Scoping Memo and Ruling sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding pursuant to Public Utilities Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure¹. This ruling is appealable only as to categorization, pursuant to Rule 7.6.

1. Procedural Background

On December 16, 2010, the Commission opened Rulemaking (R.) 10-12-007 to implement the provisions of Assembly Bill (AB) 2514 (Stats. 2010, Ch. 469). AB 2514 directed the Commission to determine appropriate targets, if any, for each Load-Serving Entity (LSE) as defined by Pub. Util. Code § 380(j) to procure viable and cost-effective energy storage systems and set dates for any targets deemed appropriate to be achieved.²

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

² Unless otherwise stated, all statutory references are to the Public Utilities Code.

In response to this state mandate, the Commission adopted Decision (D.) 13-10-040, its “Decision Adopting Energy Storage Procurement Framework and Design Program.” The energy storage framework and procurement applications for the 2014 biennial period were subsequently approved in D.14-10-045.

In compliance with Ordering Paragraph (OP) 6 of D.14-10-045, Pacific Gas and Electric Company (PG&E) filed Application 15-12-004 seeking approval of the results of its 2014 Energy Storage Request for Offers. A.15-12-004 indicated that PG&E continued to negotiate with additional bidders and would submit a second application if those negotiations proved fruitful. The instant application is the result of those continuing negotiations.

A.16-04-024 was filed on April 29, 2016. Protests were filed by the Office of Ratepayer Advocates (ORA) and jointly by Marin Clean Energy and Sonoma Clean Power Authority (CCA Parties). A Response was filed by Green Power Institute. PG&E filed a Reply. Administrative Law Judge (ALJ) Michelle Cooke held a telephonic prehearing conference (PHC) on July 18, 2016. This ruling memorializes the outcome of the PHC.

2. Scope

Consistent with the scope established for A.15-12-004, the reasonableness of the proposed contract is a primary issue. CCA Parties have also raised the issue of applicability of the Power Charge Indifference Adjustment (PCIA) to storage contract costs. Some parties have raised the question of consolidation of this application with A.15-12-004.

Because a decision is imminent in A.15-12-004, we will not consolidate this application with A.15-12-004. Regarding applicability of the PCIA to storage costs, the parties are well aware that prior Commission decisions have addressed

whether storage is eligible for PCIA treatment, and we will not revisit that determination here. A.15-12-004 will establish the manner by which energy storage costs for contracts eligible for PCIA treatment will be integrated into the PCIA methodology.

In addition, at the PHC we also discussed the topic of whether the contract is properly categorized by function, and what remedy should occur if PG&E has not met its 2014 Energy Storage target.

A summary of the issues is:

1. Was the solicitation conducted in a fair and competitive manner?
2. In selecting winners, did PG&E apply the evaluation methodologies approved in D.14-10-045 correctly?
3. Were any deviations from pro forma contracts approved in D.14-10-045 warranted?
4. Are the prices, terms, and conditions resulting from the solicitation reasonable?
5. Does the contract promote safe and reliable operation and maintenance of the energy storage systems?
6. Should the contract be approved?
7. Is the contract properly categorized by function?
8. If the PG&E contract is not approved, PG&E will be short of meeting its 2014 energy storage goal. What should occur to remedy this shortfall?

Based on discussion at the PHC, ORA appears to be the primary party that will pursue the issues regarding the reasonableness of the contracts themselves. The parties agreed that the issues are amenable to briefing and do not require testimony, although ORA may seek to introduce certain discovery responses as evidentiary exhibits.

3. Categorization and Need for Hearing

The Commission in Resolution ALJ 176-3379 issued on March 17, 2016, preliminarily determined that the category of these proceedings is “ratesetting” as defined by Rule 1.3(e) and preliminarily determined that hearings are needed.

In this Scoping Memo, we affirm the category determination in accordance with Rule 7.1. The proceeding categorization of “ratesetting” is appealable pursuant to Rule 7.6.

At the PHC we discussed the need for hearings. All parties concluded that hearings are not needed in order to decide these issues. Therefore, in this Scoping Memo, we change the preliminary determination on the need for hearing and conclude that the issues can be fully resolved through briefing without the need for evidentiary hearings. Consistent with Rule 7.5, this change in the preliminary determination will be placed on the Commission’s Consent Agenda for approval.

Because we make a final determination that hearings are not required, Rule 13.13 ceases to apply, along with a party’s right to make a final oral argument.

Commissioner Carla J. Peterman is the assigned Commissioner for this proceeding. Administrative Law Judge Michelle Cooke is designated as the Presiding Officer for this proceeding.

4. Ex Parte Communications

Normally, in ratesetting proceedings such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the ALJ are only permitted as described at Public Utilities Code § 1701.3(c) and Article 8 of the Rules. However, once the scoping memo has

determined that there is no need for hearings, Rule 8.3(d) governs and *ex parte* communications are allowed without reporting.

5. Intervenor Compensation

Pursuant to Public Utilities Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by August 17, 2016, 30 days after the PHC.

6. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

Parties are responsible for ensuring that the correct information is contained on the service list, including limiting the persons listed in the "Parties" category to one person per organization. Parties should note that the maintenance of party status requires active participation in the proceeding, *e.g.* submitting formal filings, participating in workshops, etc. The assigned ALJ may remove party status if a party is not actively participating in the proceeding. Parties removed from party status will be placed in the Information Only category.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving

copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6.

All documents in this proceeding must be filed and served in accordance with the Commission's Rules with the exception of the requirements in Rules 1.9(e) and 1.10(c) to serve a copy of the certificate of service/service list, which are suspended for this proceeding. Documents should be served in the format in which they were filed (typically PDF), or in the format required by any ruling of the assigned ALJ. Parties should promptly provide documents in the underlying format (*e.g.*, Microsoft Word) upon timely request by another party.

In addition, because testimony is anticipated, parties submitting testimony should follow the protocols for submitting Supporting Documents set forth at (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>). The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedure including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (*i.e.* "ex parte communications") or other matters related to a proceeding. Consistent with the requirements for all formally filed documents, all documents submitted through the "Supporting Documents" feature must be in PDF/A format. The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the ALJ, and does not replace the requirement to serve documents to other parties in a proceeding. Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the

Commission. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (*i.e.* “record”) unless accepted into the record by the ALJ.

Commissioner Peterman and ALJ Cooke should receive documents by e-mail only unless otherwise specified. If the Commissioner or ALJ request hard copies, the hard copies should be printed on both sides of the page, be stapled, and include a copy of the certificate of service. Hard copies should not include a copy of the service list, a cover sheet, or copies for more than one person in the same envelope.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission’s Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission’s Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f). Requests for Party status must be made by motion, in accordance with Rule 1.4.

To the extent discovery is conducted in this proceeding, this proceeding will follow the general rule of no more than ten working days to respond to data requests. This rule will apply to all parties. If a longer response time is required, the party preparing the response shall so notify the requesting party and indicate when the response will be sent. Such notice should be provided as soon as possible, but no later than ten days after receipt of the request. If parties have

discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to Rule 10.1.

7. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

8. Schedule

The adopted schedule is:

EVENT	DATE
PG&E serve Exhibit to update whether it has met the 2014 Energy Storage target or notify parties that no update is needed to its testimony	August 2, 2016
Conference call to identify exhibits	September 12, 2016
Opening Briefs	September 23, 2016
Reply Briefs	October 7, 2016
Proposed Decision	November 15, 2016
Anticipated Commission Meeting/Decision	30 days after but no later than 60 days after the Proposed Decision

The proceeding will be submitted upon the filing of reply briefs, unless the assigned Commissioner or the ALJ directs further evidence or argument.

The assigned Commissioner or assigned ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

It is the Commission's intent to complete this proceeding within 18 months of the date this Scoping Memo is filed. This deadline may be extended by order of the Commission. (Public Utilities Code § 1701.5(a).)

If there are any workshops in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

9. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences, it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr>, for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

10. Final Oral Argument

A party in a ratesetting proceeding in which a hearing is held has the right to make a Final Oral Argument before the Commission, if the argument is requested within the Reply Brief. (Rule 13.13.)

IT IS RULED:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. Administrative Law Judge Michelle Cooke is designated as the Presiding Officer.
3. The scope of the issues for this proceeding is as stated in Section “2. Scope” of this ruling. No hearing is necessary.
4. The schedule for the proceeding is set in Section “8. Schedule” of this ruling. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.
5. *Ex parte* communications are allowed without restriction. (See Public Utilities Code § 1701.3(c); Rule 8.3(d) of the Commission’s Rules of Practice and Procedure.)
6. Parties shall submit their testimony and exhibits, in the event that hearings are held, through the “Supporting Documents” feature on the Commission’s Electronic Filing System. Instructions for Using the “Supporting Documents” feature are contained in <http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>).

7. Parties shall use the Naming Convention for Electronic Submission of Supporting Documents

(<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).

8. Any party requesting intervenor compensation must file notices of intent to claim intervenor compensation in this proceeding within 30 days of the July 18, 2016 Prehearing Conference.

Dated July 25, 2016, at San Francisco, California.

/s/ CARLA J. PETERMAN

Carla J. Peterman
Assigned Commissioner

/s/ MICHELLE COOKE

Michelle Cooke
Administrative Law Judge